

TAX EVASION IN PLACES OF WORSHIP

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ABSTRACT: *This paper intends to present in more detail the positioning of these elements in the legislative, highlighting the dissonance between reality and the official situation, through a synthesis of the fraudulent mechanisms used in the Romanian clerical system, of the evasion policy promoted by it. However, it is increasingly stated a tendency to transform places of worship into a joint stock company, which enjoys revenues and even collects profit from the services they provide, which is in contravention with all the values that they they are trying to promote them among the parishioners.*

KEY WORDS: *tax evasion, church, money laundry, finances, cults.*

JEL CLASSIFICATIONS: *F23, K 20, K22*

1. INTRODUCTION

The places of worship today have ceased to be mere places of retreat and spirituality. Since ancient times, the church has been an important element of the culture of the Romanian people, having the role of a spiritual guide, preserving the integrity of moral values.

Between the state and the church there is a relation with a vast history, and the denial of the connection between the two entities becomes absurd. Nationality and religion can be characterized as attributes of the person in relation to the state or society. Although the state and the places of worship, in theory are separated and manifest in different fields of activity, having different roles and competences in the society, between these two entities may appear conflicts or abusive relations, guardianship, which do not take place in a democratic and secular state: “In Romania there is no state religion; the state is neutral to any religious belief or atheist ideology”.

The right to exercise the faith ensured by the law of religious freedom, forms a chain of other rights, for example the right to have cult buildings, or the right to use

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ritual objects, without which the proper functioning of the cults would not be possible. The Romanian state takes care that all these provisions, all the string of rights, are respected, the religion enjoying a privileged place in the society.

This paper intends to present in more detail the positioning of these elements in the legislative, highlighting the dissonance between reality and the official situation, through a synthesis of the fraudulent mechanisms used in the Romanian clerical system, of the evasion policy promoted by it.

2. THE LEGISLATIVE STATUS OF THE PLACES OF WORSHIP

Romania does not have a state religion, being neutral to any religion, or, in other words, adopting a neutral ideology to any cult, these having equal rights before the law. The state will not promote or favor a cult to the detriment of another, avoiding discrimination or privilege. Religion is a social reality, which, however, must be viewed as a social element that cannot be circumvented by the institutionalization process.

According to article 29, paragraph (3) of the Romanian Constitution, "Religious cults are free and organized according to their own statutes", and paragraph (5) of the same article also states that "Religious cults are autonomous to the state and enjoy its support". According to the Law no. 489 from 2006 on religious freedom and the general regime of the cults, "the Romanian state recognizes the cults the spiritual, educational, social-charitable, cultural and social partnership role, as well as their status as factors of social peace", in other words, religious cults should be the cell meant to contribute to strengthening the moral foundation of society. Religious cults are legal-religious institutions of different religions registered in the territory of Romania, and they are based on the following defining elements:

- 1) the public sharing of a common religious confession by a larger group of people;
- 2) conducting religious practices and ceremonies, gathered within a unitary and stable ritual;
- 3) unitary social-legal organization

The same notion of "religious worship" can also be found under the name of church, religious association, religious community, sect, etc. The "church", from a legal point of view, denotes the Christian cult which is divided into several cults: Orthodox, Catholic, Evangelical, etc. "Confession" is the religious notion that defines belonging to a certain religious faith. The "religious community" is a certain unit within a church or a cult, while the "religious association" represents a group of at least 300 persons, Romanian citizens or residents in Romania, constituted within a cult, which "associates itself. in order to manifest a religious faith". By the notion of "sect" is meant a segment of a religious cult that adopts theses contrary to the fundamental theses of the respective cult, and which tends to organize according to their own faith. The same Law no. 489 of 2006 also states that the respective religious units are recognized as "legal persons of public utility", the status that was granted to them in 1928, by Law no. 54 of 1928, which until then offered them full autonomy for organization, which was done "according to their own statutes". In general, the notion

of "legal entity of public utility" means associations, foundations or other organizations of this kind, established by laws, ordinances, decrees-laws, decisions of the Government, etc., in order to achieve beneficial purposes in the fields of general public interest or of a community. Granting this status to a certain organization or foundation, means the recognition at the level of authorities that it differs from the others by the interests it promotes, by the services they provide for the benefit of the society, but also implies the granting of certain facilities and other benefits, which can be enjoyed at will.

In addition to the privileges enjoyed as a "legal person of public utility", religious cults also have legislative protection. Although the law stipulates that the maintenance of the cults and the carrying out of the activities will be covered primarily at their expense, they have some support from the authorities. Thus, the state materially supports the religious cults, offering material support for the maintenance and construction of new buildings, for the functioning of the worship units, as well as the state grants funding for the remuneration of the clerical and non-clerical staff working within the recognized cults in Romania. The money is allocated according to the number of Romanian citizens and according to the needs of the religious cult, so the low income units have a greater material aid. The financing of the cults and the financial facilities granted by the state will be described in more detail in the following subchapters.

The religious associations are legal persons made up of at least 300 persons, Romanian citizens or residing in Romania, associated with the purpose of manifesting a faith. In order to be officially registered, the claimant association must submit an application for registration with the Register of religious associations, accompanied by the documents provided by law. They are obliged to respect the Constitution and laws of Romania, without prejudice to public order and security, moral norms or human rights. When one of these violations is registered, according to article 45 of the same law, the religious association can be dissolved by the competent court.

At present, 18 cults recognized by the state authorities are operating in Romania. The complete list can be found in cultures that list the official website of the State Secretariat for Religious Affairs of Romania.

The internal structure of the cults has its own organization, in accordance with its own canonical laws, also having autonomy, full freedom in the decision-making process, as well as the ability to establish own rules of obligations complementary to those established by the state. Autonomy, for religion, can be likened to sovereignty for the state, being essential for the proper conduct of its activities, especially for the creation of its own legal order, which also supports the concept of separation of powers in the state, these two entities having their domains of well-defined activity.

As "The Romanian Orthodox Church is national and majority, according to the apostolic seniority, tradition, number of believers and its special contribution to the life and culture of the Romanian people. The Romanian Orthodox Church is the Church of the Romanian people", we will focus on the following how to organize the accounting within the BOR.

3. FINANCING AND TAX INCENTIVES GRANTED TO RELIGIOUS CULTS

Thanks to the legal status of the religious cults in Romania, they have material assistance from the state, along with other legal entities of public utility.

Although, according to official data, in 2016, through the Law of the State Budget on 2016, no funds have been allocated for the construction and repair of places of worship or for the support of their social assistance actions, the state continues to pay the clerical staff. According to the official data published by the Secretariat of Cults, the amount allocated in 2016 from the budget for staff salaries is 315,084,000 lei. In 2015, 287,697,000 lei were allocated from the state budget for salaries, and for the construction and repair of places of worship, as well as for supporting the social activities of religious units, 41,198,000 lei were granted.

In 2014, initially 161,269,000 lei were allocated for the Secretariat of Cults, an amount that was later supplemented by another 2,340,670 lei. It should be mentioned that, according to the audit report carried out by the Court of Accounts, there were discrepancies between the payment lists of salaries and the status of positions and personnel. Some people were remunerated for functions as editor, chief of personal service, economic director, while on salary lists they were registered for example as deacon - thus unauthorized persons having pay. The same report estimates the value of illegal payments made by the State Secretariat for cults of 3,001 thousand lei.

As far as tax and tax exemptions are concerned, the situation is currently as follows: according to the legislation in force of the legal status of the cults, due to the important role they have in society and the influence they enjoy, in addition to subsidizing them which they receive from the state for carrying out their activities as public utility authorities, they have some support from the state and through fiscal facilities. Also, the state supports the cults through deductions from the tax on wages, in accordance with art. 56-57 of the Fiscal Code, the transfer of a part of up to 2% of the net income tax of the natural persons who carry out an independent activity, and not only, also encouraging the sponsorships to them.

Religious cults are exempt from paying corporate income tax for the income obtained from the production and capitalization of objects and products necessary for the worship activity, income from rents, other income obtained from economic activities, income from compensation in money form, obtained as a result of reparative measures. provided by the laws regarding the reconstruction of the property right.

These revenues are exempt from the payment of taxes, provided that the amounts obtained will be used later, in the current year or in the following years for activities of maintenance, repair and consolidation of places of worship and ecclesiastical buildings, for the operation of worship units, for education, also for the maintenance of the material basis of education, which includes the provision of spaces for carrying out the process of education and scientific research, the provision of means of education and related research, libraries, printers and publishers, teaching and research stations, workshops, farms, workshops teachers, botanical gardens, agricultural lands, homes, school camps, students' homes, or any other heritage objects for education and education employees. At the same time, the cults do not pay tax for the incomes that are meant to support the actions of providing social services, actions specific to the field of activity, or other non-profit actions of the religious cults.

The units are also exempt from the payment of the tax for the incomes from realized economic activities that do not reach the equivalent of 15,000 euros, within a fiscal year, but not more than 10% of the total income obtained from activities without patrimonial purpose exempted from the payment of the tax on advantage. Therefore, the units of worship owe a tax on the profit for the taxable profit that exceeds the equivalent of 15,000 euros, but only if the respective income comes from carrying out actions other than the non-taxable ones.

The income for which no income tax is paid by the units of worship are:

- Membership fees and membership fees;
- Members' monetary or in-kind contributions;
- Registration fees established according to the legislation in force;
- Donations and money, or goods received through sponsorship;
- Dividends and interest obtained from the placement of availabilities resulting from exempt income;
- Resources from public funds or non-reimbursable financing;
- Exceptional income resulting from the disposal of tangible assets owned by the units of worship, other than those that are or have been used in an economic activity;
- The amounts received as a result of non-compliance with the conditions under which the donation or sponsorship was made, according to the law, provided that the respective amounts will be used in the current year or in the following years, to achieve their purpose and objectives, according to their own statutes or canonical codes, as the case may be ;
- The income obtained from compensation from insurance companies for the damages produced to own tangible assets, other than those used in the economic activity;
- The sums received from the income tax due by the natural persons;
- Income received from taxes of any kind;
- Income from occasional actions, such as: fundraising events with participation fee, holidays, conferences, etc. if they are organized for social purposes;
- Income from advertising and advertising, revenues from renting advertising space on buildings, land, books, magazines, newspapers;
- Income from rents, etc.

The units of worship are exempt from paying taxes for a number of buildings that are used as places of worship, except those used for economic purposes, for funeral buildings in cemeteries or crematoriums, for buildings returned to religious cults in Romania, according to the law, for those used for social-humanitarian purposes, as well as for any land of a unit of religious worship recognized by law, any land of a cemetery or crematorium, or the lands related to the buildings retroceded, for the duration for which the owner is obliged to maintain the affection of public interest, as well as for the annexes of the respective places, such as the bell tower, the mortuary chapel, the premises for burning candles, the parish house destined for the residence of the priest or the staff, the warehouse for storing objects of worship, the keel, the trapeze, and any other unity used by the religious cult.

It is exempt from VAT the provision of personnel by the units of worship for the purpose of providing hospitalization, medical care, for educational activities, professional training of adults, as well as the provision of services and the delivery of goods closely related to these activities, for the provision of services related to social assistance, protection of children and young people, etc.

Also, from the point of view of value added tax, the delivery of religious objects, such as icons, liturgical vessels, icons, crucifixes and others, is not considered as an economic activity, except for the objects of decoration and those used in weddings and baptisms. The provision of services or supplies of goods to members of the cult in their collective interest, in accordance with their own statutes or canonical laws, is also exempt from VAT, as well as the units of worship that carry out economic activities and register a turnover lower than the equivalent of 35,000 euros. If this figure is reached or exceeded, the respective units are required to apply for VAT registration within 10 days of the end of the month in which this ceiling was reached.

The direct purchase from the economic operators producers, distributors or importers of any energy product used as fuel for heating the units of worship, including also natural gas is exempt from the payment of excise duties, and the exemption is granted directly, based on an end-user authorization issued by the territorial fiscal authority, within which the cult unit is registered.

4. FRAUDULENT MECHANISMS WITHIN THE CULT UNITS

Unfortunately, the places of worship, leading the Romanian Orthodox Church, are increasingly at the center of scandals related to evasion, or other less orthodox practices. The fraudulent mechanisms used in the name of the Lord are far more complex than they may seem at first sight. It is not just about not giving a receipt for officiating a certain ritual, "selling" a candle or reading an aquatist. Within the whole structure, starting with the small parishes, to the level of the metropolises, or even the patriarchy, there are well-established schemes for money laundering, evasion, but also dubious business.

Not at all, it should be noted. In some parishes, in the wardrobe the wind blows, which puts the respective priests to the hard test. Once again, the discrepancy between the exorbitant luxury demonstrated by some church faces, gets even more contrast, besides the less fortunate ones.

In what follows, at least part of the component elements of an entire mechanism, created on the basis of an enviable indulgence enjoyed by the religious institutions, will be attempted.

5. COUNTERFEITING OF RELIGIOUS ATTRIBUTES

If we are to start from the lower levels of the hierarchies, namely from the parishes, we will discover a long series of deviations and wrongs of priests.

Candles are an indispensable element of Christian rites, having a special place in the celebration of services, funerals, or any other ritual. "The Romanian Orthodox Church and the other religious cults have, exclusively, the right to produce and

capitalize the objects and vestments of worship, as well as to print the books of worship, theological or ecclesiastical content, necessary for the practice of worship". The absolute monopoly on the market is held by the Church, according to the law. From the factories owned by it, hundreds of tons of candles come out annually, which are then sold to parishioners. According to official data, only in the candle factory of the Metropolis of Moldova and Bucovina, over 200 tons of wax are used annually, which later turns into candles that have a price starting from 50 dollars. The price can even be up to 10 times higher, by overpaying the taxpayer.

But, naturally, this profitable business could not be circumvented by some manipulations, from which the priests take advantage. Every year, more and more clandestine factories are discovered, organized even by the church's servants, such as the case of the priest from Suraia, who together with three other sinners, would produce and market candles during 2012-May 2016, and then they sold in the area of Vrancea county, Buzău, but also in Bucharest, or other cases detected by police.

The final products are then sold in places of worship, all the income being later withheld by "businessmen" and reinvested in the process, a sign that things are going well. Proof is the imposing number of such "businesses" discovered. The situation is so serious that the Metropolitan of Moldova itself has asked the Prefect's Institution for help in detecting evasion cases with these objects of rite. The dimensions of the evasion can be observed after the results obtained after the verifications, according to the Prefect of Iasi, the production in the county had increased by 28 tons per month.

Thus, in accordance with Article 4 of Law 103/1992, the clandestine production and marketing of cult objects, such as candles, icons, but also others, are sanctioned with fines between 5,000 and 10,000 lei. In addition to candles, there are also many other objects illegally marketed in churches - icons, calendars, key chains and other religious souvenirs.

A notorious case is the merchandise created for the cult of the monk Arsenie Boca, who, in addition to the street vendors who made his image and name a real brand, also invaded the market of church literature sold in churches. The problem is that, during his life, he wrote a single book "The Path of the Kingdom" and one representing a collection of quotes from his "Living Words", but on the market you can find around 63 titles with prices between 2 and 15 lei, and up to 110 lei. A market that amounts to an annual amount of 18-20 million euros annually, where out of the total securities sold, including in churches and monasteries, only 20-30% have some authenticity, the rest representing piracy and counterfeiting.

6. THE SCAMS COMMITTED IN THE PLACE OF WORSHIP

Religion is a refuge for a soul seeking relief, hope and deliverance from the overwhelming feeling of loneliness that each of us has. The need to believe stems from the human desire to come closer to the Divinity, to be part of a universe in which there is a meaning, each having a purpose, a predestination, but more importantly, a destiny already decided. "For the ways of man are clear before the eyes of the Lord, and he sees all his paths".

At the moment of the meeting, when a person is psychologically vulnerable, the feeling of insecurity may cause him to look for some answers to questions, which, at first glance, may seem unanswered.

One of the variants used in the attempt to find out the following tests, an advice or the answer to a grinding question is the "open book of prayer", or, as the case may be, the Bible. A practice quite widespread in the Orthodox countries, but persecuted at the ecclesiastical level, being nothing but guesswork. However paradoxical it may not sound, some priests practice the most persecuted church activity in all of history. However, among the barbarians this practice is successful, being in great search.

The ritual consists in the random opening of prayer books or the Gospel, to a random page and the interpretation of the respective text as a divine answer to the parish priest's questions.

The practice of "opening the book" is not part of the Christian tradition, being more a witchcraft or astrology ritual. The "Opening of the Book", ie the opening of the Gospel, of the Psalter or of the Pidalion (the holy canons of the Church) with the intention of guessing the future, constitutes a ritual condemned by the Orthodox Church, being considered as dangerous as witchcraft and guessing.

With a bit of psychology and manipulative power, priests can give the answer that the applicant is waiting for. The price requested in such cases is not a fixed one, but it differs, depending on the problem and the practitioner, and starts from 50 lei, reaching 400. Some priests may also request payment in euros.

The ritual is against all the canonical provisions, the priests who practice it risking being harassed, and the reason why they take such a risk is that there is a demand for such a "service", and profit is a catalyst for the continuation of these tasks. Moreover, after the rejection of the draft law on the protection of the deceived persons guessing, there is not even a penalty for curbing this ritual.

The problem of deception is not characteristic only of Orthodox churches. Similar practices can be found in other cults registered in the territory of Romania, for example, within the Church. Universal Pentecostals, where pastors deal with exorcisms, cures of diseases, demanding instead the tithe from salary.

There are also numerous cases of exorcisms, enchantments, charm breakdowns, and other bizarre tasks that benefit the priests on account of the naivety and the troubles of the applicants. Enjoying docile legislation and far too lenient in such cases, these practices will continue to parasitize.

Combating the scams committed by church faces is a way of preventing other more serious crimes, which result from the feeling of intangibility and superiority over the law, but would also save a lot of deceived people.

7. CONCLUSIONS

Due to the tax facilities that they enjoy, in particular the exemption from paying income taxes that do not come from commercial activities, some places of worship have become a paradise for money laundering. The scheme is simple - the money that needs to be laundered is transferred to the "box of the mile" in the form of

donations, from where they later become in the possession of the interested persons, in the form of purchases or payments of services that the premises would have had. For this, the church faces involved receive a certain commission from the transactions. The scheme is all the more effective, given that the system for monitoring and controlling donations to the church is neither transparent nor well monitored. Although for all entries, including donations, the receipt must be issued, this formality is slightly tricky.

Another way is implemented through collaboration with the authorities of the local administration, more specifically with the town halls and local councils, namely the laundering of money in the activities of construction or repair of buildings of worship units. This fraud involves the issuance of receipts for the purchase of construction materials or services, with values greater than the amount paid, by the local authorities, which granted money from their own budget for the reconstruction works of the buildings. Most likely, in such cases, the construction company that won the tender for the works is aware of the respective scheme and has its own commission.

These problems are not only encountered in Romania. Money laundering mechanisms through churches are widely practiced in Russia, Greece, the Republic of Moldova, but also within the Catholic Church, and the modalities used are diverse and very complex, in this work describing the most obvious and widespread.

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